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ATLANTIC COUNTY  
LAW DIVISION

<p>SANDRA SMITH,  Plaintiff,  v.  PLEASANTVILLE BOARD OF EDUCATION  Defendant.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION – CIVIL PART ATLANTIC COUNTY  Docket No. ATL-L-9823-11  Civil Action  COMPLAINT, JURY DEMAND AND DESIGNATION OF TRIAL COUNSEL</p>
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Plaintiff SANDRA SMITH, a resident of Atlantic County, New Jersey, complaining against defendant, says:

FIRST COUNT

1. Plaintiff SANDRA SMITH, was at all times relevant hereto employed as a Special Education Instructor by Defendant PLEASANTVILLE BOARD OF EDUCATION and doing her job with an industrious and conscientious fervor for 3 years.
2. On or about March 8, 2010, Plaintiff SANDRA SMITH came to learn that certain required pension contributions were not being made by Defendant PLEASANTVILLE BOARD OF EDUCATION.
3. On or about March 15, 2010, Plaintiff SANDRA SMITH disclosed the failure of Defendant PLEASANTVILLE BOARD OF EDUCATION to make these required contributions to superiors, including, but not limited to Dennis Mulvihill

(Business Administrator), Mark Delcher (Union President) and Elijah Tompkins (Comtroller).

4. In addition to making her disclosure and objections to her supervisors, Plaintiff SANDRA SMITH also filed a complaint with the Administrative Office of Law on September 20, 2010.

5. Ultimately, Plaintiff SANDRA SMITH received notice of non-renewal effective June 30, 2011.

6. In or about August of 2011, Defendant PLEASANTVILLE BOARD OF EDUCATION attempted to condition the settlement of her Petition with the Administrative Office of Law on her execution of a civil release, which Plaintiff SANDRA SMITH refused to sign.

7. Throughout 2010 and 2011 Plaintiff SANDRA SMITH repeatedly voiced her concerns on multiple occasions to multiple superiors that Defendant PLEASANTVILLE BOARD OF EDUCATION was not complying with her understanding of the law.

8. All of the concerns and objections of Plaintiff SANDRA SMITH were ignored and rebuked by Defendant PLEASANTVILLE BOARD OF EDUCATION.

9. Instead of responding to her concerns and objections, Defendant PLEASANTVILLE BOARD OF EDUCATION began targeting Plaintiff, retaliating against Plaintiff, ultimately terminated Plaintiff and has attempted to cover up its actions by attempting to require the execution of a civil release before doing what it was already legally obligated to do .

10. In reality, all of the criticism and action toward Plaintiff SANDRA SMITH was pretextual, with the true facts being that Defendant PLEASANTVILLE BOARD OF EDUCATION was retaliating against Plaintiff SANDRA SMITH due to her disclosures and objections concerning their non-compliance with the law.

11. Rather than properly investigate her complaints, rectify their own deficient policies and procedures, and undo the adverse employment action to which Plaintiff SANDRA SMITH was subjected, Defendant PLEASANTVILLE BOARD OF EDUCATION did nothing.

12. Defendant PLEASANTVILLE BOARD OF EDUCATION was and is, at all times relevant to this matter, an employer defined by N.J.S.A. 34:19-2.

13. Defendant PLEASANTVILLE BOARD OF EDUCATION did take retaliatory action against Plaintiff SANDRA SMITH because of her disclosure to supervisors of activities that she believed to be in violation of law, rule or regulation promulgated pursuant to law, including, but not limited to non-renewing her and other adverse employment action.

14. Defendant PLEASANTVILLE BOARD OF EDUCATION did retaliate against Plaintiff SANDRA SMITH for her lawful disclosures and objections by taking adverse employment action against Plaintiff SANDRA SMITH in the terms and conditions of her employment, as more specifically set forth above.

15. Defendant PLEASANTVILLE BOARD OF EDUCATION also had certain obligations pursuant to N.J.S.A. 34:19-7 for which it was deficient.

16. As a result of the aforementioned actions of Defendants, Plaintiff SANDRA SMITH has suffered both economic and non-economic damages and has otherwise been irreparably injured.

WHEREFORE, Plaintiff SANDRA SMITH demands judgment against Defendant PLEASANTVILLE BOARD OF EDUCATION as follows:

- A. An injunction to restrain continued violation of the New Jersey Conscientious Employee Protection Act;
- B. Immediate reinstatement and restoration to office, namely the same position held by Plaintiff prior to the retaliatory action of Defendants or an equivalent position;
- C. Full reinstatement of fringe benefits and seniority rights;
- D. Full reinstatement and back pay constituting compensation for lost wages, benefits and other remuneration;
- E. Payment by defendants of the reasonable costs of this action and for attorneys' fees;
- F. Compensatory damages;
- G. Punitive damages;
- H. The assessment of a Civil Penalty as allowed by law;
- I. Any other relief allowed under the Conscientious Employee Protection Act; and
- J. Any other relief that the Court deems equitable and just.

RULE 4:5-1 CERTIFICATION

Pursuant to R. 4:5-1, I hereby certify that to the best of my knowledge, information and belief, the matter in controversy is not the subject of any other action pending in any Court or arbitration proceedings, and no other action is contemplated. I know of no other parties that should be joined herein.

CERTIFICATION OF COMPLAINT WITH R. 1:38-7(c)

I certify the Confidential Personal Identifiers have been redacted from documents now submitted to the Court, and will be redacted from all documents submitted in the future in accordance with R. 1:38-7(b).

JURY DEMAND PURSUANT TO R.4:35-1

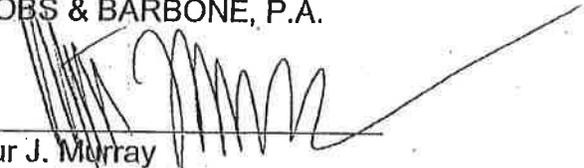
Plaintiff hereby demands trial by jury as to all issues.

DESIGNATION OF TRIAL COUNSEL

Plaintiff hereby designates Louis M. Barbone, Esquire, and Arthur J. Murray, Esquire as trial counsel in this case.

JACOBS & BARBONE, P.A.

BY:

  
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Arthur J. Murray

Dated: November 10, 2011

## SETTLEMENT AGREEMENT AND GENERAL RELEASE

THIS SETTLEMENT AGREEMENT AND GENERAL RELEASE (hereinafter "this Agreement") is entered into by and between SANDRA SMITH (hereinafter "plaintiff") and the PLEASANTVILLE BOARD OF EDUCATION (hereinafter "defendants");

WHEREAS, Plaintiff filed a Complaint in the Superior Court of New Jersey, entitled, Smith v. Pleasantville Board of Education, bearing Docket No.: ATL-L-9823-11, and has asserted claims in connection with alleged events occurring during plaintiff's employment; and

WHEREAS, the parties settled all controversies between them, including plaintiff's claims bearing Docket No.: ATL-L-9823-11 and including any and all related claims which could have been asserted as of the effective date of the settlement as defined in paragraph 13 herein, whether such claims are presently known or unknown; and

WHEREAS, all parties acknowledge that the merits of the controversy are in dispute and have not been finally adjudicated, and that no party admits any liability to any other, but all have reasons to desire amicable resolution of the matter, including to avoid the costs and inconvenience of litigation; and

NOW, for and in consideration of the agreements, covenants and conditions herein contained, the adequacy and sufficiency of which are hereby expressly acknowledged by the parties hereto, the parties agree as follows:

1. The terms of settlement:

- (a) The defendant agrees to pay plaintiff and her attorney the total sum of \$30,000.00 (thirty thousand dollars) payable in one lump sum (hereinafter "settlement amount"), the sufficiency of which is hereby acknowledged. The payment shall be made on or before July 31, 2014. This settlement amount is inclusive of all claims of any nature, sort, or variety, including claims for attorney's fees and costs incurred by counsel for plaintiff. The settlement check shall be made payable to "Jacobs & Barbone, P.A., as attorneys for Sandra A. Smith."
- (b) Plaintiff has been advised by her counsel that no guarantees can be made regarding the tax treatment of the payments, whether by the federal government or any state or other government. The parties understand and agree that an IRS Form 1099 designating the settlement amount as "other income" will be issued. Plaintiff agrees to assume full liability for applicable state, federal and local taxes, if any, that may be required by law to be paid with respect to any settlement payment described herein. Plaintiff further agrees that in the event that the Internal Revenue Service or any other taxing authority deems any tax, interest, penalties or other amounts to be due from the defendants with respect to the settlement, plaintiff will indemnify the defendants for any sums defendants may be required to pay, exclusive of attorney's fees and costs. It is the intent of the parties that the payments described in paragraph 1(a) herein will be the defendants' total payment to or for the benefit of the plaintiff.

- (c) This Settlement does not represent an admission of liability by any party.
- (d) Plaintiff agrees that, but for this settlement agreement and general release, plaintiff would not be entitled to the aforesaid payments and other terms of settlement described herein.

2. Dismissal of Action: Plaintiff understands and agrees that counsel for the defendants will file with the Superior Court of New Jersey, the executed original of the Stipulation of Dismissal with Prejudice with regard to Docket No. ATL-L-9823-11. The parties understand and agree that the terms of the aforesaid dismissals are expressly incorporated by reference within this Settlement Agreement and General Release as if fully set forth herein.

3. Release in Consideration for the Payment and Other Consideration Provided for in this Agreement: In consideration of the payment and other consideration provided for in this agreement, plaintiff, personally and for plaintiff's estate and plaintiff's heirs, waives, releases and gives up any and all claims, demands, obligations, damages, liabilities, causes of action and rights, in law or in equity, known and unknown, that plaintiff may have against the defendants, agents, representatives and employees (present and former), and their respective successors and assigns, heirs, executors and personal or legal representatives, based upon any act, event or omission occurring before the execution of this Agreement, including, but not limited to, any events related to, arising from, or in connection with plaintiff's employment, and/or interaction with the defendants, agents, representatives, and employees. Plaintiff specifically waives, releases and gives up any and all claims arising from or relating to plaintiff's employment, and/or interaction with the defendants based upon any act, event or omission occurring before the date of execution of this settlement agreement, including but not limited to, any claim that was asserted or could have been asserted under any federal and/or state statutes, regulations and/or common law. Plaintiff specifically waives, releases and gives up any and all claims arising from or relating to plaintiff's employment and/or relationship and/or interaction with defendants, based upon any act, event or omission occurring before the effective date of the settlement as defined in paragraph 13, including but not limited to, any claim that was asserted or could have been asserted under any Federal and/or State statutes, regulations and/or common law, expressly including, but not limited, to any potential claim relating to the following (along with any amendments thereto):

- (a) Title VII of the Civil Rights Act of 1964;
- (b) Sections 1981 through 1988 of Title 42 of the United States Code;
- (c) The Employment Retirement Income Security Act of 1974;
- (d) The Immigration Reform Control Act;
- (e) The Age Discrimination & Employment Act of 1967;
- (f) The Fair Labor Standards Act;

- (g) The Occupational Safety & Health Act;
- (h) The Family & Medical Leave Act of 1993;
- (i) The Equal Pay Act;
- (j) The New Jersey Law Against Discrimination;
- (k) The New Jersey Minimum Wage Law;
- (l) The Equal Pay Law for New Jersey;
- (m) The New Jersey Worker Health & Safety Act;
- (n) The New Jersey Family Leave Act;
- (o) The New Jersey Conscientious Employee Protection Act;
- (p) Any anti-retaliation provision of any statute or law;
- (q) New Jersey Civil Rights Act of 2004, N.J.S.A. 10:6-1.
- (r) Any other federal, state or local, civil or human rights law or any other local, state or federal law, regulation or ordinance, any provision of any federal state constitution, any public policy, contract, tort or common law, conversion, spoliation, or any losses, injuries or damages (including back pay, front pay, liquidated, compensatory or punitive damages, attorney's fees and litigation costs).

4. No Claims Permitted/Covenant Not to Sue: Plaintiff waives plaintiff's right to file any charge or complaint on plaintiff's own behalf and/or participate as a complainant, a plaintiff, or charging party in any charge or complaint which may be made by any other person or organization on plaintiff's behalf, with respect to anything which has happened up to the execution of this Agreement before any federal, state or local court or administrative agency including the EEOC and the DCR, against the defendants, except if such waiver is prohibited by law. Should any charge or complaint be filed, plaintiff agrees that plaintiff will not accept any relief or recovery therefrom. Plaintiff confirms that no such charge, complaint or action exists in any forum or form other than the Complaint bearing Docket ATL-L-9823-11, and hereby covenants not to file any charge, complaint or action in any forum or form against the defendants based upon anything which is encompassed by the terms of this Agreement. Except as prohibited by law, in the event that any such charge, complaint or action is filed by plaintiff, it shall be dismissed with prejudice upon presentation of this Agreement.

5. Attorney's Fees and Costs: Plaintiff agrees that plaintiff will bear plaintiff's own costs and attorney's fees which have been incurred in connection with the within matter and in connection with the negotiation and preparation of this Agreement and that no amounts other than the payment to be made pursuant to paragraph 1(a) of this Agreement shall be sought by or owed to

plaintiff or his attorneys by defendants in connection with this matter; the parties also agree that no monies shall be sought by any defendants from plaintiff in connection with this litigation.

6. No Admission of Liability: It is expressly understood that neither the execution of this agreement nor any other action taken by the defendants in connection with plaintiff's alleged claims or this settlement, constitutes an admission by any of the defendants of any violation of any law, duty or obligation, or that any decisions or actions taken in connection with plaintiff's employment were unwarranted, unjustified, retaliatory, discriminatory, wrongful or otherwise unlawful.

7. Entire Agreement: This Agreement contains the sole and entire agreement between the parties hereto and fully supersedes any and all prior agreements and understanding pertaining to the subject matter hereof, and is intended to memorialize the settlement of plaintiff's claims. Plaintiff represents and acknowledges that, prior to executing this Agreement, plaintiff consulted her attorney, that plaintiff had ample time to do so, that plaintiff obtained the advice of counsel prior to making the decision to execute the Agreement and that plaintiff had not relied upon any representation or statement not set forth in this Agreement made by any defendants thereto, or defendants' counsel or representatives, with regard to the subject matter of this Agreement. No other promises or agreements shall be binding unless in writing, signed by the parties hereto, and expressly stated to represent an amendment to this Agreement.

8. Severability: The parties agree that if any court declares any portion of this agreement unenforceable, the remaining portion shall be fully enforceable.

9. Applicable Law: This settlement Agreement shall be construed and interpreted in accordance with the laws of the State of New Jersey. The parties agree that any action to enforce or interpret this Agreement shall only be brought in a court of competent jurisdiction in the State of New Jersey, which the parties hereby acknowledge and agree to be the Superior Court of New Jersey.

10. Confidentiality of Agreement. To the extent permissible by law, the terms of this Settlement Agreement shall not be publicly disclosed and shall be held confidential by all parties and attorneys involved in this case. It is further understood and agreed that neither Plaintiff nor Defendant nor any agents, servants or representatives of Plaintiff or Defendant shall, in any way, at any time disclose for any reason or purpose whatsoever to any other person or entity (other than immediate family, attorneys, accountants, financial advisors, or as otherwise may be required by law) the terms of the consideration, compensation or settlement reached.

12. If the Defendants receive any request from a prospective or subsequent employer for information about the Plaintiff, the Defendants will provide a neutral job recommendation.

13. Effective Date: This Agreement will become effective on the date on which plaintiff executes this Settlement Agreement and General Release.

14. This Settlement Agreement and General Release is not intended to be used and shall not be used as evidence or for any other purpose in any other action or proceeding, other than evidence of the parties' compromise as set forth herein or to enforce the terms of this Settlement Agreement and General Release.

15. BY SIGNING THIS SETTLEMENT AGREEMENT AND GENERAL RELEASE, PLAINTIFF ACKNOWLEDGES:

- A. PLAINTIFF HAS READ IT;
- B. PLAINTIFF UNDERSTANDS IT AND KNOWS PLAINTIFF IS GIVING UP IMPORTANT RIGHTS;
- C. PLAINTIFF AGREES WITH EVERYTHING IN IT;
- D. PLAINTIFF'S ATTORNEY NEGOTIATED THIS SETTLEMENT AGREEMENT AND GENERAL RELEASE WITH PLAINTIFF'S KNOWLEDGE AND CONSENT;
- E. PLAINTIFF HAS BEEN ADVISED TO CONSULT WITH PLAINTIFF'S ATTORNEY PRIOR TO EXECUTING THIS SETTLEMENT AGREEMENT AND GENERAL RELEASE, AND HAS IN FACT DONE SO; AND
- F. PLAINTIFF HAS SIGNED THIS SETTLEMENT AGREEMENT AND GENERAL RELEASE KNOWINGLY AND VOLUNTARILY.



